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6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**  
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9 UNITED STATES OF AMERICA,  
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11 Plaintiff,

12 v.

13 DAVID M. PERELMAN,  
14

Defendant.

Case No. 2:09-CR-00443-KJD-LRL

**ORDER**

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16 Currently before the Court is Defendant's Motion to Suppress Involuntary Statements (#18).  
17 The Government filed a Response (#20), to which Defendant filed a Reply (#23). The Magistrate  
18 Judge issued a Report and Recommendation (#42) on Defendant's Motion, recommending that the  
19 Court deny Plaintiff's Motion to Suppress. Defendant filed Objections (#46) to the Magistrate  
20 Judge's Report and Recommendation, to which the Government filed a Response (#48).

21 Additionally before the Court is Defendant's Supplemental Motion to Suppress (#28). The  
22 Government filed a Response (#30), to which Defendant filed a Reply (#31). The Magistrate Judge  
23 issued a Report and Recommendation (#38), recommending that the Court deny the Supplementary  
24 Motion to Dismiss. Defendant filed Objections (#39) to the Magistrate Judge's Report and  
25 Recommendation, to which the Government filed a Response (#40).  
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1 Also before the Court is Defendant's Motion to Dismiss Count Two of the Indictment (#13).  
2 The Government filed a Response (#19), to which Plaintiff filed a Reply (#24). The American Civil  
3 Liberties Union ("ACLU") also filed a brief in Reply (#25) as *amicus curiae*, on behalf of Plaintiff.  
4 The Magistrate Judge issued a Report and Recommendation (#41), to which Plaintiff filed  
5 Objections (#50). The Government filed a Response (#51), to which Plaintiff filed a Reply (#54).  
6 Additionally, before the Court is the Notice of Ninth Circuit Case (#58), and Supplemental  
7 Memorandum (#60) filed by the Government, and Defendant's Supplement (#59).

8 The Court has considered each Motion, Response, Reply, and the *amicus* brief, together with  
9 the Magistrate Judge's Reports and Recommendations, Defendant's Objections, Responses, Reply,  
10 and all supplemental information and conducted a *de novo* review of the record in this case in  
11 accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule IB 1-4. *De novo* review means the court  
12 must consider the matter anew, the same as if it had not been heard before and as if no decision  
13 previously had been rendered. Ness v. Commissioner, 954 F.2d 1495, 1497 (9th Cir. 1992). Thus,  
14 although the Court need not hold a *de novo* hearing, the Court's obligation is to arrive at its own  
15 independent conclusion about those portions of the Magistrate Judge's Report and Recommendation  
16 to which objections have been made. United States v. Remsing, 874 F.2d 614, 617 (9th Cir.1989).

17 Having read and considered the foregoing, and having conducted a *de novo* review, the Court  
18 determines that the Magistrate Judge's Report and Recommendations (## 42, 38, 41) are accepted  
19 and adopted in whole. Particularly, the Court finds that the facts and issues presented in this case are  
20 distinguishable from the facts and issues involved in the recent Ninth Circuit decision in U.S. v.  
21 Xavier Alvarez, No. 08-50345 2010 WL 3222192 (9th Cir. August 17, 2010). Specifically, the  
22 Alvarez decision addresses the constitutionality of sections (b) and (c) of the Stolen Valor Act, 18  
23 U.S.C. § 704, which impose criminal penalty "for the mere utterance or writing" of what is or may be  
24 perceived as a representation that an individual has been awarded a military decoration or service  
25 medal. (*Id.*, at \*1). The Defendant in this case however, was indicted under sections (a) and (d) of  
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1 the Statute, for the unauthorized wearing or use of a military or service medal—which was not  
2 addressed by the Ninth Circuit in Alvarez.

3 Accordingly, **IT IS HEREBY ORDERED** that Defendant's Motion to Suppress Involuntary  
4 Statements (#18), Defendant's Supplemental Motion to Suppress (#28), and Defendant's Motion to  
5 Dismiss Count Two of the Indictment (#13) are **DENIED**.

6 **IT IS FURTHER ORDERED** that the Magistrate Judge's Report and Recommendations  
7 (## 42, 38, 41) are accepted and adopted in whole.

8 **IT IS FURTHER ORDERED** that Plaintiff's Objections to the Magistrate Judge's Report  
9 and Recommendation (#46, 39, 50) are **DENIED**.

10 DATED this 19th day of August 2010

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Kent J. Dawson  
United States District Judge  
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